

July 28, 2014

The Honorable Jim Renacci
U.S. House of Representatives
Washington, DC 20515

The Honorable Kurt Schrader
U.S. House of Representatives
Washington, DC 20515

The Honorable Lynn Jenkins
U.S. House of Representatives
Washington, DC 20515

The Honorable Jim Costa
U.S. House of Representatives
Washington, DC 20515

Dear Representatives Renacci, Schrader, Jenkins and Costa:

Thank you for your leadership in introducing the “STARS Act of 2014.” This bipartisan legislation provides desperately needed technical corrections and clarity at a time when employers with highly seasonal workforces are having significant difficulty in determining their employer size and employer shared responsibility requirements under the Patient Protection and Affordable Care Act (ACA). We appreciate your recognition of the challenges that our members have encountered as they attempt to understand and comply with the law’s requirements.

We commend the Department of the Treasury for its continued recognition of the challenges that seasonal employment pose for small employer compliance in its final rule on IRC §4980H. It is clear that the Administration both acknowledged and intended to fix the significant issues that the unique seasonal employment paradigm pose within the construct of the ACA. We agree with Treasury’s fact sheet that accompanied the final rule: “those in positions in which customary employment is six months or less” should not be considered full-time employees.

While the regulatory definition of seasonal employee is clear at 6 months, the statute itself still contains the second seasonal worker definition, which leaves more room for interpretation and continues to confuse small employers as they work to comply with the law. The attached guidance document from the Internal Revenue Service, from an FAQ published on May 13, 2014, demonstrates the unnecessary complexity that small, seasonal employers with limited human resource capabilities have encountered when attempting to comply with the ACA. And though Treasury has appropriately recognized these challenges, it lacks the statutory flexibility to fully address compliance issues through regulation. Hence, Congress must act.

The STARS Act adopts the Administration’s definition of seasonal employment while simplifying and aligning the seasonal provisions of the ACA to better enable employer compliance. This targeted approach provides critical relief without fundamentally upsetting the intent of the ACA’s employer provisions. The bill does not eliminate an applicable large employer’s requirement to offer affordable coverage to qualifying full-time employees, nor does it alter the Administration’s

preferred treatment of seasonal employees. It simply provides seasonal employers with the clarity needed to assess their obligations under the ACA.

Specifically, the STARS Act:

- *Aligns* the separate definitions of “seasonal” found in statute and in the final regulation to the Treasury Department’s preferred definition from the final regulation on IRC §4980H (six months or less, customary, annual, recurring);
- *Simplifies* the determination of Applicable Large Employer size and the determination of a seasonal employee’s full-time status for the purposes of the ACA’s Employer Shared Responsibility provisions.

Thank you again for introducing the “STARS Act of 2014.” This well-crafted, bipartisan legislation appropriately addresses the unique challenges that seasonal employment poses for small employer compliance with the ACA. By passing STARS, Congress can ensure that small seasonal employers with limited HR capabilities have the tools and understanding necessary to comply with the ACA and to continue to grow their businesses. We look forward to working with you and members of Congress to address the challenges of seasonal employer compliance under the ACA and greatly appreciate your leadership on this issue.

Sincerely,

Accredited Snow Contractors Association
Agricultural Retailers Association
Alabama Restaurant & Hospitality Alliance
Alaska Cabaret, Hotel, Restaurant & Retailers Association
American Farm Bureau Federation
American Honey Producers Association
AmericanHort® (American Horticulture Industry Association)
American Hotel and Lodging Association
American Sugar Cane League
Arizona Restaurant Association
Arkansas Hospitality Association
Associated Builders and Contractors
Associated General Contractors
Associated Landscape Contractors of Colorado
Building Stone Institute
California Association of Winegrape Growers
California Grape and Tree Fruit League
California Restaurant Association
Colorado Arborists & Lawn Care Professionals
Colorado Nursery & Greenhouse Association
Colorado Restaurant Association
Connecticut Environmental Council, Inc.

Connecticut Restaurant Association
Delaware Restaurant Association
Florida Fruit & Vegetable Association
Florida Nursery, Growers & Landscape Association
Florida Restaurant & Lodging Association
Georgia Fruit and Vegetable Growers Association
Georgia Restaurant Association
Golf Course Superintendents Association of America
Gulf Citrus Growers Association
Hawaii Restaurant Association
Idaho Lodging & Restaurant Association
Idaho Nursery and Landscape Association
Illinois Landscape Contractors Association
Illinois Restaurant Association
Indiana Restaurant & Lodging Association
International Franchise Association
Iowa Restaurant Association
Kansas Restaurant & Hospitality Association
Kentucky Nursery and Landscape Association
Kentucky Restaurant Association
Louisiana Farm Bureau Federation
Louisiana Restaurant Association
Maine Innkeepers Association
Maine Restaurant Association
Massachusetts Restaurant Association
Michigan Restaurant Association
Mid-America Green Industry Council
Minnesota Nursery & Landscape Association
Minnesota Restaurant Association
Mississippi Hospitality & Restaurant Association
Missouri Restaurant Association
Montana Restaurant Association
Mulch and Soil Council
National Association of College Stores
National Association of RV Parks & Campgrounds
National Association of Theatre Owners
National Christmas Tree Association
National Club Association
National Council of Agricultural Employers
National Council of Farmer Cooperatives
National Federation of Independent Business
National Hispanic Landscape Alliance
National Onion Association
National Potato Council
National Restaurant Association
National Retail Federation

National Thoroughbred Racing Association
Nebraska Restaurant Association
Nevada Restaurant Association
New Hampshire Lodging & Restaurant Association
New Jersey Restaurant Association
New Mexico Restaurant Association
New Jersey Nursery and Landscape Association
New York State Hospitality and Tourism Association
New York State Restaurant Association
North American Retail Dealers Association
North Carolina Restaurant & Lodging Association
North Dakota Hospitality Association
Ohio Hotel & Lodging Association
Ohio Lawn Care Association
Ohio Nursery & Landscape Association
Ohio Restaurant Association
Oklahoma Restaurant Association
Oregon Association of Nurseries
Oregon Farm Bureau Federation
Oregon Potato Commission
Oregon Restaurant & Lodging Association
Outdoor Amusement Business Association
The PGA of America
Pennsylvania Restaurant & Lodging Association
Professional Landcare Network
Restaurant Association of Maryland
Restaurant Association of Metropolitan Washington
Rhode Island Hospitality Association
Snow & Ice Management Association, Inc.
Society of American Florists
South Carolina Restaurant & Lodging Association
South Dakota Retailers Association Restaurant Division
The Society for Human Resource Management (SHRM)
Tennessee Hospitality Association
Tennessee Nursery & Landscape Association
Texas Nursery & Landscape Association
Texas Restaurant Association
U.S. Apple Association
United Egg Producers
United Fresh Produce Association
Utah Restaurant Association
Vermont Chamber of Commerce
Virginia Green Industry Council
Virginia Hospitality & Travel Association
Virginia Nursery and Landscape Association
Washington Association of Landscape Professionals

Washington Potato Commission
Washington Restaurant Association
Western Growers
West Virginia Hospitality & Travel Association
Wisconsin Hotel & Lodging Association
Wisconsin Landscape Contractors Association
Wisconsin Restaurant Association
Wyoming Lodging & Restaurant Association
Yuma Fresh Vegetable Association